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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/173,423 10/15/98 DEICHMANN

R WW-8

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PM82/1219

EXAMINER

THOMSON, M	
ART UNIT	PAPER NUMBER

3641

DATE MAILED:

12/19/00

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/173,423

Applicant(s)

DEICHMANN ET AL.

Examiner

Michelle (Shelley) Thomson

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2000.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on 28 August 2000 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The corrected or substitute drawings were received on 8/28/00. These drawings are acceptable.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because numerous reference characters have been used to designate more than one object, for example: reference character "10" has been used to designate both "locating assembly" and "stop assembly"; reference character "24" has been used to designate "accumulator tank", "accumulator" and "stop assembly"; reference character "44" has been used to designate "a curved portion", "lower end", "stand end portion" and "stancion end portion"; reference character "55" has been used to designate both "mounting plate" and "base plate"; reference character "25" has been used to designate both "bumpers" and "adapter"; reference character "26" has been used to designate both "fastener" and "hose"; reference character "72" has been used to designate both "barrel extension" and "barrel"; reference character "28" has been used to designate both "handles" and "openings"; reference character "73" has been used to designate

Art Unit: 3641

both "first end" and "end portion"; reference character "80" has been used to designate both "locating assembly" and "stop assembly"; reference character "84" has been used to designate both "floating stops" and "dogs"; and reference character "75" has been used to designate both "barrel" and "other end".

The preceding are exemplary only and not exhaustive.

Specification

4. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means"

and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The disclosure is objected to because of the following informalities: The specification is replete with idiomatic and grammatical errors too numerous to mention specifically. Examples of such errors are as follows:

- ✓ On page 3 in line 23 the reference to U.S. Patent 4,085,256 is apparently the wrong patent, patent 4,085, 256 discloses high temperature organic electrolyte cells;
- ✓ On page 4, line 6 there should be and --is-- after "this";
- ✓ On line 24, "the the" should be --the--;
- ✓ On page 5, line 2 "the the" should be --the--;
- ✓ On line 3 the sentence beginning "Other objects..." appears to be incomplete;
- ✓ On page 6, line 13, "controlledby" should be --controlled by--;
- ✓ On line 17 "a a" should be --a--;
- On page 7, line 1 "stancion" apparently should be --stanchion-- (stanchion is repeatedly misspelled);
- On line 13, "interal" should apparently be --integral-- (integral is repeatedly misspelled);
- On line 20, "horizional" should apparently be --horizontal-- (horizontal is repeatedly misspelled);
- On line 25, "scres" should be --screws--;
- On line 26 --of-- should be after "pair";
- On page 8, line 8 "reilient" should apparently be --resilient-- (resilient is repeatedly misspelled);

Art Unit: 3641

On line 14 "caried" should be "carried";

On line 18 "botton" should apparently be --button--;

On page 14, in line 9 the phrase "on and or valve" is unclear;

On line 15, "pnuematic" should be --pneumatic--; (pneumatic is repeatedly misspelled).

The preceding are exemplary only and not exhaustive.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not disclose the trunnion assembly launching a mixture of solids and liquids.

Claim Objections

8. Claims are objected to because of the following informalities:

In claim 7 "horizontel" should be --horizontal--;

In claim 13 "intergal" should be --integral--;

In claim 17, --of-- should be after "pair";

In claim 23 and 24 "verical" should be --vertical--;

In claim 25 "the the" should be --the--, in line 6 "substance" should be deleted, "barrell" should be --barrel--;

In claim 28 "stantion" should be --stanchion--;

In claim 29 "a a" should be --a--;

In claim 37 --material-- should be after "elastomeric";

In claim 45 "botton" should be --button--;

In claim 46 "--of-- should be after "pair";

Art Unit: 3641

In claim 50 "within within" should be --within--.

The preceding are exemplary only and not exhaustive.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 7-39 and 51 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the launching device to launch a liquid, does not reasonably provide enablement for launching a solid or mixtures thereof. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. It is not clear to the examiner how solids and mixtures of solids and liquids will be able to travel through the disclosed fluid containing conduit (61) or travel through the accumulator tank (24) or hose (26).

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 7-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 is indefinite in that the claim does not end with a period so it is uncertain if everything intended has been included in the claim.

In claim 9, the limitation "said pair of resilient stop assemblies" in line 2 has no positive antecedent basis, since a plurality of resilient stop assemblies have been previously claimed.

In claim 10, the limitation "said pair of resilient movable stop assemblies" in line 2 has no positive antecedent basis, since a plurality of resilient stop assemblies have been previously claimed.

Claim 12 recites the limitation "removable fasteners" in line 3. There is insufficient antecedent basis for this limitation in the claim.

In claim 13, the limitation "said bumper" in line 2 has no positive antecedent basis, since a plurality of bumpers have been previously claimed.

Claim 18 recites the limitation "semi-cylindrical floating stops" and "respective cutaway portions" in line 2 and 3 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "first valve means" in line 14. There is insufficient antecedent basis for this limitation in the claim.

In claim 37, the limitation "said stops" in line 3 has no positive antecedent basis, since a plurality of stops have been previously claimed.

Claim 39 recites the limitation "fasteners" and "openings" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 41 recites the limitation "second flexible conduit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 42 recites the limitation "said first flexible conduit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "cutaway portions" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 51 recites the limitation "means ...horizontal movement" and "said means...vertical movement" in lines 9 and 12 respectively. There is insufficient antecedent basis for this limitation in the claim.

13. Regarding claim 25, the word "means" is preceded by the word(s) "first valve" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. Regarding claim 33, the word "means" is preceded by the word(s) "lug" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Allowable Subject Matter

14. Claims 7-51 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 3641

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

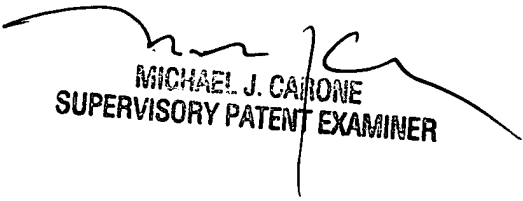
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Thomson whose telephone number is 703.306.4176. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.7687 for regular communications and 703.305.7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

mrt

December 15, 2000


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER